

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JAY D. TARLTON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-05-1439-HE
)	
JO ANNE B. BARNHART,)	
Commissioner of the Social)	
Security Administration,)	
)	
Defendant.)	

ORDER


Plaintiff Jay Tarlton instituted this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his application for disability insurance benefits under 42 U.S.C. §§ 416(i) and 423. Plaintiff challenges the decision on the grounds that it was not supported by substantial evidence. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Shon Erwin, who recommended that the decision of the Commissioner be reversed and the matter remanded for further administrative proceedings.

Defendant has failed to object to the Report and Recommendation and, therefore, has waived her right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court adopts the Report and Recommendation, **REVERSES** the Commissioner's decision, and **REMANDS** the case for further administrative proceedings consistent with this opinion.

IT IS SO ORDERED.

Dated this 18th day of January, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE